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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/556,208 04/24/00 PRATT

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QM02/1218

GREGORY J NELSON
NELSON & ROEDIGER
3333 E. CAMELBACK RD
SUITE 212
PHOENIX AZ 85018

EXAMINER

LEE, K

ART UNIT

PAPER NUMBER

3753

DATE MAILED:

12/18/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/556,208

Applicant(s)

Pratt et al

Examiner

Kevin Lee

Group Art Unit

3753



☒ Responsive to communication(s) filed on Nov 30, 2000

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire THREE month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-8 is/are pending in the application.

Of the above, claim(s) 4-8 is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-3 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☒ The drawing(s) filed on Apr 24, 2000 is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☒ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____.

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Art Unit: 3753

DETAILED ACTION

Election/Restriction

1. Claims 4-8 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 5.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the plastic construction of the valve body must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Specification

3. The spacing of the lines of the specification is such as to make reading and entry of amendments difficult. New application papers with lines double spaced on good quality paper are required.
4. The abstract should be on a separate page.

Art Unit: 3753

Claim Objections

5. Claims 1-3 are objected to because of the following informalities:
- a) The claim lines are crowded too closely together, making reading and entry of amendments difficult. Substitute claims with lines one and one-half or double spaced on good quality paper are required. See 37 CFR 1.52(b);
 - b) The claims must begin on a separate page following the specification;
 - c) Each claim must be only one sentence in length; and
 - d) In claim 1, line 3, the first occurrence of "and" should read "an."

Claim Rejections - 35 USC § 112

6. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 3 is rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

The claim recites a surface and primary diaphragm in line 1 of the claim and tandem diaphragms in line 12 of the claim. The specification is believed to only support the disclosure of the surface and primary diaphragms.

Art Unit: 3753

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-3 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The following observations are noted:

- a) In claim 1, line 2, "various" is vague and indefinite;
- b) The following recitations lack antecedent basis: "the housing" in claim 1, line 3; "the primary diaphragm throttling surface" in claim 1, line 4; "the captive volume" and "the throttling region" in claim 1, line 5; "the outlet port" and "said captive volume" in claim 1, line 6; "the required metallic components" in claim 1, line 12; "said metallic components" in claim 1, line 13; "the features" and "the primary diaphragm" in claim 2; "the body discharge area" in claim 3, line 2; "whose gap" in claim 3, line 3; "the gap" in claim 3, line 4; and "the backup diaphragm" and "the non wetted side" in claim 3, line 5;
- c) The recitation in claim 1, line 7 is vague and indefinite;
- d) In claim 1, line 9, "considerable length" is vague;
- e) In claim 1, line 11, "constant material type" is vague;
- f) In claim 1, lines 12 and 13, "safe distances" and "barrier plastic" are vague; and
- g) In claim 3, line 12, "maybe" is vague and indefinite.

Art Unit: 3753

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Linder et al. As far as the claims are understood in view of the above paragraphs, the above claims are readable as being anticipated by the patent to Linder et al wherein Linder et al discloses a primary diaphragm (52) and a throttling diaphragm (92), a weep hole (66) and a drive shaft (48) for capturing the diaphragms in a tandem relationship.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patent to Story et al is cited for the additional showing of a diaphragm valve assembly including a weep hole for leak detection.

Any inquiry concerning this communication should be directed to KEVIN LEE at telephone number (703) 308-1025. The Group 3750 fax number is (703) 305-3579.

DECEMBER 11, 2000

Kevin Lee
Kevin Lee
Primary Examiner